

PLANNING COMMISSION MINUTES

June 28, 2000

CALL TO ORDER:

Chairman Dan Maks called the meeting to order at 7:00 p.m. in the Beaverton City Hall Council Chambers at 4755 SW Griffith Drive.

ROLL CALL:

Present were Chairman Dan Maks, Planning Commissioners Bob Barnard, Betty Bode, Sharon Dunham, Eric Johansen and Vlad Voytilla. Commissioner Chuck Heckman was excused.

Senior Planner Steven Sparks, AICP, Assistant City Attorney Ted Naemura and Recording Secretary Sandra Pearson represented staff.

The meeting was called to order by Chairman Maks, who presented the format for the meeting.

VISITORS:

Chairman Maks asked if there were item. There were none. any visitors in the audience wishing to address the Commission on any non-agenda issue or

OLD BUSINESS:

PUBLIC HEARING:

Chairman Maks opened the Public Hearing and read the format for Public Hearings. There were no disqualifications of the Planning Commission members. No one in the audience challenged the right of any Commissioner to hear any of the agenda items, to participate in the hearing or requested that the hearing be postponed to a later date. He asked if there were any ex parte contact, conflict of interest or disqualifications in any of the hearings on the agenda. There was no response

CONTINUANCES:

A. TA2000-0003 - UTILITY UNDERGROUNDING TEXT AMENDMENT

(Continued from June 21, 2000)

The proposal would, if approved, amend the Development Code to allow the payment of an "in-lieu" fee as an alternative to placing above ground utilities

1 underground. The proposed text would add a new section to Chapter 60 and
2 amend several sections of Chapter 40 of the Development Code. The proposed
3 amendment would apply to existing development only when redevelopment of
4 property is proposed.

5
6 Senior Planner Steven Sparks presented the Staff Report and observed that this
7 item has been continued several times and that staff had prepared a proposal to
8 satisfy the concerns previously expressed by the Planning Commission. He
9 clarified the proposed “undergrounding scenarios”, specifically if an exempt
10 facility shares a location with a non-exempt facility, adding that this is outlined
11 more clearly in the staff report. He concluded his presentation, offering to
12 respond to any comments or questions at this time.

13
14 Chairman Maks complimented staff and the City Attorney for their successful
15 efforts in addressing concerns of the Planning Commission. He discussed the
16 exempt status and whether the option would be lost at that time to require that
17 the other utility to be underground.

18
19 Mr. Sparks informed Chairman Maks that this assumption is correct, if that
20 property has already reached its full development potential and is not
21 redeveloped in the future.

22
23 Chairman Maks observed that it would be necessary to collect the in lieu fee for
24 the non-exempt utility.

25
26 Commissioner Bode requested clarification of how much money is actually
27 involved, expressing her confusion of establishing fees following the adoption of
28 the actual text amendment.

29
30 Chairman Maks advised Commissioner Bode that the City Council is responsible
31 for the establishment of fees.

32
33 Mr. Sparks indicated that Chairman Maks is correct in stating that the City
34 Council will be responsible for establishing the fees, adding that the utility
35 undergrounders have provided staff with cost estimates upon which the future
36 fees will be based. The fees to be established will be based on the type of facility
37 to be undergrounded.

38
39 Commissioner Dunham referred to the “in lieu” fees, specifically the phrase
40 “shall be based on average costs”, observing that this phrase is a potentially
41 moving target.

42
43 Mr. Sparks clarified that the costs will be established by the City Council by a
44 Resolution that will be adopted later this year, adding that these costs will be
45 reviewed and adjusted accordingly on an annual basis.

46

1 Commissioner Barnard referred to page 4 of 12 of the Staff Report, specifically
2 Criteria No. 3, expressing his opinion that the paragraph does not indicate any
3 particular action.

4

5 Mr. Sparks advised Commissioner Barnard that these provisions actually make a
6 project eligible to pay an in lieu fee. He referred to page 3 of 12 of the Staff
7 Report.

8

9 Commissioner Barnard expressed his opinion that Criteria No. 3 and Criteria No.
10 4 present some potential conflicts.

11

12 Mr. Sparks indicated that he understands Mr. Barnard's confusion, adding that
13 for the sake of consistency, Criteria No. 4 should read that if any of the existing
14 or proposed utilities are less than the corresponding thresholds specified above,
15 there should be an option of either paying the in lieu fee or locating the utility
16 underground.

17

18 Chairman Maks requested clarification that Criteria No. 4 is being modified.

19

20 Mr. Sparks suggested that Criteria No. 4 be modified to indicate that it meets or
21 is below the corresponding threshold.

22

23 Assistant City Attorney Ted Naemura suggested that this essentially opens up the
24 in lieu fee to any measurement, rendering the chart unnecessary.

25

26 Commissioner Barnard indicated that this is his interpretation of Criteria No. 4,
27 expressing his opinion that the chart is not necessary.

28

29 Mr. Sparks indicated that the chart is necessary to provide an explanation of the
30 minimum requirements and thresholds.

31

32 Commissioner Barnard disagreed, stating that Criteria No. 4 indicates that the
33 applicant shall either pay or the in lieu fee or underground all utilities.

34

35 Mr. Sparks pointed out that Criteria No. 4 should actually compliment Criteria
36 No. 3 by indicating the option, when below the threshold, of placing the utilities
37 underground. He suggested that perhaps a new Criteria No. 5 should provide
38 that if over the threshold, the utility will be located underground.

39

40 Commissioner Barnard requested clarification of whether Criteria 4 indicates
41 that an applicant who is at the threshold has an option.

42

43 Mr. Sparks emphasized that it is not the intent of staff to determine that an
44 applicant has no option. He explained that Criteria No. 3 should indicate the
45 thresholds, while Criteria No. 4 should indicate anyone at or below the threshold
46 has the option of paying the in lieu fee or locating the utility underground. He

1 noted that new Criteria No. 5 could indicate that in the event someone is over the
2 threshold, it is necessary to locate the utility underground.

3
4 Commissioner Barnard suggested the deletion of a portion of Criteria No. 4,
5 adding that it may be desirable to allow the option at the discretion of the City of
6 Beaverton.

7
8 Mr. Sparks advised Commissioner Barnard that this is not an option with a large
9 project, emphasizing that the goal is to locate these utilities underground as
10 development occurs.

11
12 Mr. Naemura commented that Criteria No. 4 almost completes the desired
13 explanation of the chart in Criteria No. 3.

14
15 Mr. Sparks indicated that this is why he is suggesting that the word “exceeds”
16 not be included, expressing his opinion that there should be some provision
17 included providing for an application that meets or is below the thresholds. He
18 agreed that Criteria No. 4 explains the text in Criteria No. 3.

19
20 Mr. Naemura observed that Criteria No. 3 and Criteria No. 4 provide a complete
21 expression of Mr. Sparks’ intent. Mr. Naemura suggested relocating the text
22 from Criteria No. 4 to Criteria No. 3, observing that the text will now explain
23 Criteria No. 3.

24
25 Commissioner Barnard pointed out that the first sentence states that if any of the
26 existing or proposed utilities exceeds the corresponding threshold, as specified,
27 the applicant still has the option of paying the in lieu fee or undergrounding.

28
29 Chairman Maks advised Commissioner Barnard that this is going to be changed.

30
31 Mr. Sparks emphasized that the word “exceeds” is incorrect and should not be
32 included in the text.

33
34 Commissioner Barnard questioned whether Criteria No. 3 is necessary, adding
35 that it doesn’t have a point of action.

36
37 Chairman Maks expressed his opinion that Criteria No. 3 is necessary, adding
38 that Criteria No. 4 should just state “meets” the criteria.

39
40 Commissioner Barnard suggested that Criteria No. 3 and Criteria No. 4 could be
41 included in one action.

42
43 Chairman Maks stated that Criteria No. 4 should be deleted and the text should
44 be added to Criteria No. 3.

45

1 On question, Commissioner Maks determined that he had consensus on this
2 issue, adding that this was a good catch on the part of Commissioner Barnard.

3
4 Commissioner Maks questioned whether he had consensus on the issue of
5 whether one utility has to be underground and another does not, should the City
6 have the ability to charge in lieu fees.

7
8 Commissioner Barnard expressed concern with the situation of exemptions,
9 specifically whether this could result in poles suddenly filled with cables and
10 everything else.

11
12 Mr. Sparks observed that this is possible.

13
14 Chairman Maks stated that this is a valid point.

15
16 Commissioner Barnard expressed concern with poles having all kinds of
17 attachments.

18
19 Mr. Sparks mentioned that it is conceivable in the event of an existing power
20 pole is available it could be cheaper to add more line than to underground.

21
22 Commissioner Voytilla pointed out that he is not aware of any situation where if
23 one utility goes underground, all are not located underground. He described a
24 situation where one utility owned the pole and the other did not, and because the
25 ownership of the pole changed, the upper portion of the pole was removed. He
26 referred to constantly changing technologies, observing that the undergrounding
27 of some of these utilities is sometimes less desirable than the poles. He stated
28 that he is comfortable with this amendment, expressing his opinion that the
29 Planning Commission should proceed. On question, he informed Commissioner
30 Maks that he is in approval of collecting the fees on a non-exempt utility that
31 will still be located on the pole.

32
33 Commissioner Voytilla expressed his opinion that this amendment is well done,
34 pointing out that some fine-tuning will be involved.

35
36 Commissioner Bode expressed her approval of collecting the fees on a non-
37 exempt utility that will still be located on the pole.

38
39 Commissioner Dunham expressed her approval of collecting the fees on a non-
40 exempt utility that will still be located on the pole.

41
42
43 Commissioner Barnard expressed his approval of collecting the fees on a non-
44 exempt utility that will still be located on the pole, adding that he is in favor of
45 exempting the 50,000.
46

Commissioner Johansen expressed his approval of collecting the fees on a non-exempt utility that will still be located on the pole.

Mr. Sparks stated that based on the apparent consensus on Option No. 2 of the Staff Report, and based on the revisions made prior to this discussion, the added text on page 11 of the Staff Report would be added to Section 3 of the criteria.

PUBLIC TESTIMONY:

On question, no member of the public appeared to testify at this time.

On question, staff indicated that there were no further comments at this time.

Mr. Naemura commented on the new language that will be necessitated by combining Criteria No. 3 and Criteria No. 4.

The public portion of the Public Hearing was closed.

On question, all Commissioners indicated consensus in the approval of the text amendment.

Commissioner Bode complimented Mr. Sparks for a well-prepared Staff Report, observing that it made sense and she was able to match up the statements with the criteria of the different goals.

Commissioner Bode **MOVED** and Commissioner Johansen **SECONDED** a motion to approve TA 2000-0003 – Utility Undergrounding Text Amendment, as amended this evening, based upon the testimony, reports and exhibits presented during the public hearing on the matter and upon the background facts, findings and conclusions found in the Staff Report dated June 28, 2000, including amendments made during the Public Hearing tonight, as follows:

- The word “exceeds” contained in Section 60.65.25.4. shall be placed with the word “meets”.
- Section 60.65.25.4. shall have the following sentence added to the end of the proposed paragraph: “If any of the private utilities exist and are deemed exempt from the undergrounding requirement, as specified in Section 60.65.15.1., only that exempt private utility shall not be required to pay an in-lieu fee. All other existing private utilities that share the location of the exempt private utility shall either pay an in-lieu fee or be placed underground.”
- The entire text contained in Section 60.65.25.4. shall be moved and added to Section 60.65.25.3.

Motion **CARRIED**, unanimously.

1 **APPROVAL OF MINUTES:**

2
3 Minutes of the meeting of May 24, 2000, submitted. Commissioner Johansen referred to
4 line 6, page 6, requesting that the following amendment: "...would change the existing
5 zone **within Urban Standard Residential** from Neighborhood Service to R-5..."
6 Commissioner Johansen referred to line 40 of page 11, requesting that it be amended, as
7 follows: "...seems to suggest that a **any** particular zone **implementing** the commercial
8 designation for a grocery store, and ~~therefore~~ **thereby** it meets the criteria for the rezone."
9 Chairman Maks referred to line 37, page 11, requesting the following amendment:
10 "...Commissioner Heckman had asked his **first** three questions." Chairman Maks
11 referred to line 37, page 12, requesting the following amendment: "...and findings to
12 support ~~that particular~~ **a Commission's action of** determination." Chairman Maks
13 referred to line 30, page 31, requesting the following amendment: "Chairman Maks
14 observed that Seattle ~~has no~~ **must not have** traffic problems." Chairman Maks referred
15 to line 27, page 34, requesting the following amendment: "Chairman Maks ~~reminded~~
16 **complimented** Commissioner Bode ~~that he had instructed all Commissioners to have~~ **for**
17 **having** all questions prepared and written down." Commissioner Voytilla **MOVED** and
18 Commissioner Dunham **SECONDED** a motion that the minutes be approved as written
19 and amended.
20

21 On question, Mr. Naemura informed Commissioner Dunham that because she and
22 Commissioner Barnard were present but abstained from participating in the Public
23 Hearing, it is not necessary for them to abstain from voting and approving the minutes,
24 adding that this merely indicates that they are stating that the minutes are accurate.
25

26 Mr. Naemura suggested a friendly amendment to the minutes to reflect that Assistant City
27 Attorney Bill Scheiderich was present at the meeting.
28

29 Commissioner Voytilla accepted the friendly amendment.
30

31 Motion **CARRIED**, unanimously, as amended.
32

33 **MISCELLANEOUS BUSINESS:**

34
35 Chairman Maks observed that no meeting is scheduled for July 5, 2000, although
36 there is a full agenda July 12, 2000, adding that Home Depot may be continued
37 until October or November 2000.
38

39 Chairman Maks requested that his fellow Commissioners notify him of any
40 anticipated absences or changes to the calendar, adding that Commissioners
41 Dunham and Johansen will be absent on July 12, 2000.
42

43 The meeting adjourned at 7:41 p.m.

CALENDAR:

1				
2	July	5		<i>NO MEETING SCHEDULED</i>
3		12	<i>Public Hearing</i>	<i>CUP 99-00032 HOME DEPOT (cont. from April 19, 2000)</i>
4				<i>CUP 2000-0015 IHOP OFF OF REGATTA LANE</i>
5				<i>CUP 2000-0014 GRAMOR</i>
6				<i>CUP 2000-0008 FOUNTAINCOURT</i>
7		19	<i>Public Hearing</i>	<i>CUP 2000-0002</i>
8				<i>RZ 2000-0005 ANNEXATION RELATED AMENDMENT</i>
9				<i>CPA 99-00015</i>
10				<i>TA 99-00006 TITLE 3 WATER QUALITY, FLOOD MGMT.</i>
11				<i>CPA 99-00014</i>
12				<i>TA 99-00005 GOAL 5 RIPARIAN & WETLAND PROTECTION</i>
13		26	<i>Public Hearing</i>	<i>RZ 99-00020 CORNELL ROAD REZONE OF TAX LOT 100</i>
14				<i>TPP 99-00008 WATERHOUSE 5 SUBDIVISION MODIFICATIONS</i>
15				<i>CPA 2000-0003 COMPREHENSIVE PLAN TRANSPORTATION</i>
16				<i>ELEMENT MODIFICATION</i>
17	August	2	<i>Public Hearing</i>	<i>CPA 99-00025 COMPREHENSIVE PLAN LAND USE ELEMENT</i>
18		9	<i>Public Hearing</i>	<i>CPA 99-00017</i>
19				<i>CPA 99-00018 TREE INVENTORY UPDATE</i>
20				<i>CPA 99-00013</i>
21				<i>TA 99-00004 WILDLIFE HABITAT & TREE PRESERVATION</i>
22		23	<i>Public Hearing</i>	<i>TA 2000-0004 TITLE 4 IMPLEMENTATION</i>